HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

AND

HON'BLE SRI JUSTICE R. SUBHASH REDDY

Writ Appeal No. 2565 of 2005

Between:

Akula Rajender and others.

…appellants.

And

The District Collector, Ranga Reddy District

and others.

… Respondents.

:: ORDER::

Counsel for the appellants : Sri N. Vasudeva Reddy

Counsel for the respondents 1 and 2 : G.P. for Revenue

Counsel for respondent No.3 : Sri Ch. Ramesh Babu

December 28, 2005

Per G.S. Singhvi, CJ.

This appeal is a typical example of litigious perseverance of the appellants who are constantly litigating before various revenue authorities and the Courts in the matter of recording of entries in the revenue records in respect of land bearing Survey Nos. 133 to 137 and 139 admeasuring Ac.53-00 guntas situated at Kundanpally village, Keesra Mandal, Ranga Reddy District.

The appellants are said to have purchased the aforementioned land from one M. Parthasaradhi and others vide registered sale deed some time in 1999. Mandal Revenue Officer, Keesara Mandal accepted their application and mutated their names in the revenue records. Respondent No.3 Velamakanni Nagavaraprasad challenged the action of the Mandal Revenue Officer by filing revision before the Joint Collector, Ranga Reddy District, who set aside the order of the Mandal Revenue Officer.

The appellants challenged the order of the Joint Collector in Writ Petition No. 7194 of 2002. Respondent No.3 also filed Writ Petition No. 17920 of 2002 for issuance of a direction to the official respondents to implement orders of police aid passed in I.A. No. 1064 of 1996 in I.A. No. 161 of 1991 in O.S. No. 439 of 1987 passed by the Ist Additional Subordinate Judge, Ranga Reddy District. By an order dated 25.8.2003, the learned Single Judge dismissed both the writ petitions on the premise that suit filed by the parties is pending before the competent Civil Court. In paragraphs 7 and 8 of that order, the learned Single Judge recorded the following observations:

> "7. On consideration of submissions made by counsel appearing for petitioners in both writ petitions and on perusal of the material on record, it is quite evident that both the parties had already approached the Civil Court and comprehensive suits were already filed and pending at some stage or the other. Instead of pursuing the said remedies before the competent Civil Courts, apparently, with a view to get over the same, the parties are taking to recourse to Record of Rights proceedings and also other incidental proceedings, which is wholly unsustainable. It is now well settled that proceedings under Record of Rights

> Act or Mutation, as such, do not either way finally conclude a disputed question of title and possession and ultimately it is only for the Civil Court to go into the said aspects and to decide the same. The ultimate findings given by the Civil Court are always binding on the revenue authorities. It is also settled that the revenue records are made only for the purpose of identifying a person from whom the revenue has to be collected and not beyond that.
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> 8. In the circumstances, the approach of both sides in trying to seek relief under Article 226 of the Constitution of India is wholly misconceived. More so, when the matter is ceased by the competent Civil Court, it is not open for this Court to interfere with the same and go into the serious disputed questions of title and possession. However, the parties are at liberty to agitate their respective claims before the Civil Court. The Civil Court shall dispose of the same on its own merits, uninfluenced by any of the findings made in this petition or the proceedings initiated under Record of Rights Act".

Writ Appeal Nos. 1750 and 2040 of 2003 filed by the appellants and respondent No.3 were dismissed by the Division Bench on 8.1.2004. Thereafter, the Mandal Revenue Officer vide his order dated 10.12.2003 restored the original entries.

The appellants could have challenged the last mentioned order of the Mandal Revenue Officer by filing fresh appeal or applied to the Civil Court for interim relief but instead of adopting those legally permissible courses, they again invoked the jurisdiction of this Court under Article 226 of the Constitution of India and prayed for quashing of order dated 10.12.2003.

The learned Single Judge non-suited the petitioners by observing that during the pendency of the civil suit filed by the parties, there was no warrant for judicial interdiction under Article 226 of the Constitution of India.

Learned counsel for the appellants advanced a novel argument justifying non-availing of effective alternative remedy of appeal or approaching the Civil Court by his clients by saying that

they could not do so because the Mandal Revenue Officer did not issue certified copy of order despite repeated requests and they had filed writ petition by obtaining an unauthorized copy. In our opinion, it is not possible to appreciate the conduct of the petitioners in invoking jurisdiction of this Court under Article 226 of the Constitution by obtaining unauthorized copy of the order of the Mandal Revenue Officer and at the same time pleading that they could not avail other legal remedies due to non-supply of the certified copies.

In our view, the appellants' conduct of obtaining an unauthorized copy of the order dated 10.12.2003 from the office of Mandal Revenue Officer is highly contumacious and this Court cannot encourage such litigants. In any case, the justification put forward by the appellants' counsel for non-availing of alternative remedies cannot be accepted because the appellants could have filed appeal on the basis of uncertified copy of order and made a request to the appellate authority for summoning the record. They could have made a similar request before the competent Civil Court.

We also agree with the learned Single Judge that during the pendency of the civil suit there is no warrant for issuance of a writ directing the Mandal Revenue Officer to record the names of the appellants in the revenue records. If the appellants felt aggrieved of order dated 10.12.2003, they could have applied for amendment of the pending civil suit or they could have also filed a fresh civil suit and make a request to the competent civil court to simultaneously decide both the suits.

For the reasons mentioned above, the appeal is dismissed. However, liberty is given to the appellants to avail either of the alternative remedies available to them for questioning the legality of order dated 10.12.2003.

G.S. SINGHVI, CJ.

R. SUBHASH REDDY, J.

December 28, 2005.

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